

REMARKS

I. Status of Claims

Claims 1-3, 6-54 are currently pending. By this amendment, claims 4 and 5 have been canceled without prejudice or disclaimer. Claims 1, 6, 7, 35, 36, 40-42, and 46-48 have been amended herein. Support for the amendment to claims 1, 35, 36, 40-42, and 46 can be found in the originally-filed specification and claims, for example on page 7, paragraph [034] to page 10, paragraph [038], and original claim 5. Claims 6 and 7 and claims 47 and 48 have been amended to correct improper dependencies created by the cancellation of claim 5 and the amendment of claim 46, respectively. Accordingly, no new matter has been added by these amendments.

While Applicants thank the Office for indicating the allowability of claims 6, 7, 47, and 48, Applicants respectfully traverse the rejection of claims 1-5, 8-46, and 49-54 and solicit the allowance of all pending claims as amended herein.

II. Rejections under 35 U.S.C. § 103

A. Matsunaga in View of Cauwet

Claims 1-5, 8-17, 23-46, and 50-54 have been rejected under 35 U.S.C. § 103 as allegedly obvious over U.S. Published Patent Application No. 2001/0054206 to Matsunaga et al. ("Matsunaga") in view of U.S. Patent No. 6,375,958 to Cauwet et al. ("Cauwet").

According to the Office, Matsunaga "teaches a hair dyeing composition comprising a fluorescent of azomethine compound of formula (2) . . ." having certain of the claimed properties, as well as a process for dyeing hair and a multi-compartment device for dyeing hair. Office Action at 2-3. The Office admits, however, that

Matsunaga fails to teach "a composition comprising at least one conditioning polymer chosen from polyorganosiloxanes which do not bear an amine group." *Id.* at 3.

Nonetheless, the Office attempts to rectify that deficiency with Cauwet as allegedly teaching "a composition comprising organopolysiloxane resin and silicone containing polyethyleneoxy and/or polypropyleneoxy groups" *Id.* Thus, the Office concludes that it would have been obvious to combine Matsunaga with Cauwet to arrive at the presently claimed invention, as Matsunaga "suggests the use of natural or synthetic polymers in the dyeing composition" *Id.* Applicants respectfully traverse.

To establish a *prima facie* case of obviousness the Office must demonstrate, among other things, that the cited references teach or suggest each and every element of the claims. M.P.E.P. § 2143. All of the currently pending independent claims, as amended, recite that the at least one fluorescent dye is chosen from formulae (F1) and (F3). Neither Matsunaga nor Cauwet teach or suggest at least one fluorescent dye chosen from formulae (F1) and (F3). Accordingly, no *prima facie* case of obviousness has been established, and Applicants respectfully request withdrawal of the rejection.

B. Matsunaga in View of Cauwet and Further in View of Vandenbossche

Claims 18-21 have been rejected under 35 U.S.C. § 103 as allegedly obvious over Matsunaga in view of Cauwet and further in view of U.S. Patent No. 6,391,062 to Vandenbossche et al. ("Vandenbossche"). The Office readily admits that Matsunaga and Cauwet "do not teach or disclose the claimed species of the direct dyes," but uses Vandenbossche as teaching "a composition comprising direct dyes such as nitrobenzene and anthraquinone" Office Action at 4-5.

Vandenbossche, however, fails to cure the deficiencies of Matsunaga and Cauwet, discussed above. Accordingly, no *prima facie* case of obviousness has been established with respect to claims 18-21, and Applicants respectfully request reconsideration of the rejection.

C. Matsunaga in View of Cauwet and Further in View of Giuseppe

Claim 22 has been rejected under 35 U.S.C. § 103 as allegedly obvious over Matsunaga in view of Cauwet and further in view of U.S. Patent No. 5,744,127 to Giuseppe et al. ("Giuseppe"). Although neither Matsunaga nor Cauwet disclose dyeing compositions in the form of a lightening dyeing shampoo, as claimed in claim 22, the Office attempts to insert Giuseppe as teaching "a composition formulated as a hair shampoo and hair dyeing as well." Office Action at 6. Giuseppe, however, like Matsunaga and Cauwet, fails to teach at least one fluorescent dye chosen from formulae (F1) and (F3). Accordingly, no *prima facie* case of obviousness has been established, and Applicants respectfully request reconsideration of the rejection.

D. Matsunaga in View of Cauwet and Further in View of Rondeau

Claim 49 has been rejected under 35 U.S.C. § 103 as allegedly obvious over Matsunaga in view of Cauwet and further in view of U.S. Patent No. 6,436,153 to Rondeau ("Rondeau"). The Office admits that Matsunaga and Cauwet fail to teach or suggest a fluorescent dye chosen from formula (F4), but attempt to rectify that deficiency with Rondeau. Rondeau, like Matsunaga and Cauwet, fails to teach or suggest at least one fluorescent dye chosen from formulae (F1) and (F3). Accordingly, no *prima facie* case of obviousness has been established, and Applicants respectfully request reconsideration of the rejection.

III. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: Erin C. DeCarlo
Erin C. DeCarlo
Reg. No. 51,688